

FAX RECEIVED

PATENT

JAN 24 2001 674508-2001

Applicants elect, with traverse, Group I, claims 1-21 and 29-31. ~~GROUP I~~ ~~which~~ should be rejoined with Group II, claim 47, the dependent method of use claim.

Initially, it is noted that this is the third Office Action in the prosecution of this application – all of which have been restriction requirements. It is respectfully submitted that examination on the merits is long overdue.

As a traverse, in both the January 6, 2000 and the October 25, 1999 Office Actions, claim 47 was accepted as being able to be searched and examined with claims 1-21 and 29-31, i.e., Group I of those Office Actions included claims 1-21 and 29-31, and claim 47. There is thus a long record of the PTO recognizing that claim 47 can be searched and examined with the remainder of the Group I claims, without any undue or serious burden on the Examiner. (MPEP 803 requires such a burden to justify restriction. Thus, in view of the prosecution to date, there is no justification for the present restriction requirement.

The present restriction requirement calls for Applicants to now prosecute yet a further application; a fifth divisional application, from the present claims. This is an unfair burden on Applicants, especially in view of the now long pendency and, three restriction requirement Office Actions to date.

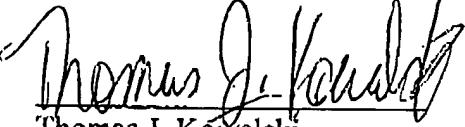
Moreover, in accordance with MPEP 821.04 and the February 28, 1996 "Guideline on Treatment of Product and Process Claims...", 1184 TMOG 86 (March 26, 1996), claim 47 is subject to rejoinder with the remainder of the Group I claims. Accordingly, since claim 47 will be subject to rejoinder, it should be searched and examined with the remainder of Group I, e.g., to have economical prosecution, especially in view of the delays in prosecution on the merits to date due to the PTO.

OFFICIAL

PATENT
674508-2001

Reconsideration and withdrawal of the restriction requirement and prompt and favorable examination on the merits are respectfully requested in view of the remarks herein, those of record, and the prosecution to date.

Respectfully submitted,
FROMMEL LAWRENCE & HAUG LLP

By: 
Thomas J. Kowalski
Reg. No. 32,147
Phone: (212) 588-0800
Fax: (212) 588-0500